



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



Silver Lake Nominee Trust  
Attn: William Rao, Trustee  
326 Prospect Hill Rd  
Waltham, MA 02451

Re: 165 East Shore Drive, Madison  
Wetlands Bureau File# 2002-1603

**ADMINISTRATIVE ORDER**  
**No. WD 03-019**

August 22, 2003

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Silver Lake Nominee Trust pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division, ("DES") is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Silver Lake Nominee Trust ("Trust") is a trust having a mailing address of 326 Prospect Hill Road, Waltham, MA 02451. William Rao is trustee of the Trust.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted NH Code of Admin. Rules Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "no person shall excavate, remove, fill dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without permit from [DES]."
3. The Trust is the owner of property located at East Shore Drive in Madison, NH, more specifically identified on Town of Madison Tax Map 19 as Lot 14 ("the Property").
4. On July 24, 2003, DES received a report that fill had been placed in Silver Lake on property owned by the Trust.
5. On August 27, 2002, DES personnel conducted an inspection of the Property and found
  - a. Approximately 490 square feet of fill was placed in Silver Lake, below the normal high water mark, to construct a perched beach and walkway along the shoreline with an approximate dimension of 70 feet by 7 feet; and

- b. A set of steps three feet wide was placed in Silver Lake approximately 42 feet south of the existing dock along the area of fill described above.
6. A review of DES records show that no permit was issued under RSA 482-A:3 to Silver Lake Nominee Trust or to William Rao for the work observed on the property.
7. On September 26, 2002, DES issued Letter of Deficiency WET 2002-32 ("LOD") to the Trust. The LOD requested the following within 60 days of receipt:
  - a. A plan with dimensions, drawn to scale, showing:
    - i. Existing conditions, including all structures along the frontage, the normal high water mark, and the 20 foot set back from property lines; and
    - ii. Proposed conditions for re-establishment of the natural shoreline reflecting removal of the fill;
  - b. A detailed description of the proposed means of erosion control and stabilization of the area to be restored; and
  - c. A description of the proposed construction sequence, methods for accomplishing restoration, and anticipated restoration compliance date.
8. On November 26, 2002, DES received correspondence from Stephen Rodman of Lampert, Hausler, & Rodman, PC. Mr. Rodman advised DES that he represented the Trust and requested a ninety day extension to respond to the LOD.
9. By letter dated December 10, 2002 DES granted the request for the 90 day extension.
10. To date, DES has no record of the requested written response to the LOD.
11. By letter dated May 30, 2003, DES informed the Trust that it had not received a response to the LOD.
12. To date, DES has no record of the requested written response to the LOD.
13. On July 2, 2003, DES personnel spoke with Bruce Gordon, President of Silver Lake Association of Madison. Mr. Gordon stated that he observed the shoreline of the Property in June 2003, and observed that the Property had remained unchanged since DES conducted the August 2002 field inspection.

#### **D. DETERMINATION OF VIOLATIONS**

1. The Trust has violated RSA 482-A:3, I by placing approximately 490 square feet of fill in Silver Lake without a permit from DES.
2. The Trust has violated RSA 482-A:3, I by constructing a set of steps in Silver Lake without a permit from DES.

### **E. ORDER**

Based on the above findings, DES hereby orders the Trust as follows

1. **By September 15, 2003**, submit a plan, drawn to scale, prepared by a wetland scientist or environmental engineer to DES for review and approval. The plan shall include the following:
  - a. Provisions for removal of the approximately 490 square feet of fill placed below the normal high water line and relocation of the steps landward of the normal high water line on the property;
  - b. Existing conditions, including all structures along the frontage, the normal high water mark and the 20 foot setback from property lines;
  - c. Proposed conditions to reflect reestablishment of the natural shoreline after the fill has been removed;
  - d. A detailed description of the proposed means of erosion control and stabilization of the restoration area; and
  - e. A description of the proposed construction sequence, methods for accomplishing restoration, and a proposed restoration date.
2. **By September 15, 2003**, retain a certified wetlands scientist or environmental engineer to supervise the implementation of the plan.
3. **Within 14 days** of receiving written approval from DES, implement the plan as conditioned by DES.

Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Linda Magoon, Compliance Specialist  
DES Water Division, Wetlands Bureau  
6 Hazen Drive – P.O. Box 95  
Concord, NH 03301  
Fax: (603) 271-6588  
e-mail: [lmagoon@des.state.nh.us](mailto:lmagoon@des.state.nh.us)

### **F. APPEAL**

Any person aggrieved by this Order may request DES to reconsider the Order within 20 days of the date of the Order. The request for reconsideration must describe in detail each ground for the request. DES may grant a rehearing, if in its opinion, good cause is provided in the motion.

Filing an appeal or motion for reconsideration does not relieve the Trust of the obligation to comply with the Order.

**G. OTHER PROVISIONS**

Please note that RSA 482-A:13 and RSA 482-A:14 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Trust remains obligated to comply with all applicable requirements.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.

**COPY** **COPY**  
for Harry T. Stewart, P.E., Director Michael P. Nolin, Commissioner  
Water Division Department of Environmental Services

Certified Mail/RRR: 7002 3150 0001 5411 0039

cc: Gretchen Rule, DES Legal Unit ✓  
Public Information Officer, DES PIP Office  
Jennifer Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
Rene Pelletier, DES Land Resource Management Program  
Mary Ann Tilton, DES Wetlands Bureau  
Madison Conservation Commission  
Town of Madison Board of Selectmen  
Stephen J. Rodman, Lampert, Hausler & Rodman, P.C  
Bruce Gordon, President, Silver Lake Association of Madison